



February 23, 2007

## SENATE BILL No. 358

DIGEST OF SB 358 (Updated February 21, 2007 4:32 pm - DI 87)

**Citations Affected:** IC 22-11; noncode.

**Synopsis:** Consumer fireworks. Requires a fireworks retailer to apply for a certificate of compliance at least 30 days before the date on which the retailer intends to begin selling consumer fireworks. Requires a fireworks retailer to provide an inspection report certifying compliance with fire and safety laws. Provides that a certificate of compliance expires on December 31 of the year in which the certificate is issued. Provides that a retailer that sells fireworks without a certificate of compliance commits a Class B infraction.

**Effective:** Upon passage.

**Heinold**

January 16, 2007, read first time and referred to Committee on Local Government and Elections.  
February 22, 2007, amended, reported favorably — Do Pass.

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SB 358—LS 7177/DI 103+



February 23, 2007

First Regular Session 115th General Assembly (2007)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2006 Regular Session of the General Assembly.

## SENATE BILL No. 358

A BILL FOR AN ACT to amend the Indiana Code concerning public safety.

*Be it enacted by the General Assembly of the State of Indiana:*

- 1 SECTION 1. IC 22-11-14-4.5, AS ADDED BY P.L.187-2006,
- 2 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 3 UPON PASSAGE]: Sec. 4.5. (a) A retailer may sell consumer
- 4 fireworks and items referenced in section 8(a) of this chapter from a
- 5 tent under the following conditions:
- 6 (1) The tent may not be larger than one thousand five hundred
- 7 (1,500) square feet.
- 8 (2) There may be only one (1) tent for each registration granted
- 9 under section 11(a) of this chapter.
- 10 (3) The tent may not be located closer than one hundred (100) feet
- 11 from a permanent structure.
- 12 (4) A vehicle may not be parked closer than twenty (20) feet from
- 13 the edge of the tent.
- 14 (5) The tent must be fire retardant.
- 15 (6) The sales site must comply with all applicable local zoning
- 16 and land use rules.
- 17 (7) Sales of fireworks may be made from the tent for not more

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than forty-five (45) days in a year.

(8) The weight of consumer fireworks in a tent may not exceed three thousand (3,000) gross pounds of consumer fireworks.

(9) A retailer that legally operated a tent with a registration in 2005 may continue operation in a tent in 2006 and the following years. A registration under section 11(a) of this chapter is required for operation in 2006 and following years. For purposes of this subdivision, a retailer includes a resident wholesaler who supplied consumer fireworks to an applicant for a tent registration in 2005.

(10) The retailer holds a valid registration under section 11(a) of this chapter.

(b) A retailer may sell consumer fireworks and items referenced in section 8(a) of this chapter from a Class 1 structure (as defined in IC 22-12-1-4) if the Class 1 structure meets the requirements of any of the following subdivisions:

(1) The structure complied with the rules for a B-2 or M building occupancy classification before July 4, 2003, under the Indiana building code adopted by the fire prevention and building safety commission established under IC 22-12-2-1:

(A) in which consumer fireworks were sold or stored on or before July 4, 2003; and

(B) in which no subsequent intervening nonfireworks sales or storage use has occurred.

(2) The structure complied with the rules for a B-2 or M building occupancy classification before July 4, 2003, under the Indiana building code adopted by the fire prevention and building safety commission established under IC 22-12-2-1;

(A) in which consumer fireworks were sold or stored on or before July 4, 2003;

(B) in a location at which the retailer was registered as a resident wholesaler in 2005; and

(C) in which the retailer's primary business is not the sale of consumer fireworks.

(3) The structure complies with the rules for an H-3 building occupancy classification under the Indiana building code adopted by the fire prevention and building safety commission established under IC 22-12-2-1, or the equivalent occupancy classification adopted by subsequent rules of the fire prevention and building safety commission.

(4) The structure complies with the rules adopted after July 3, 2003, by the fire prevention and building safety commission

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established under IC 22-12-2-1 for an M building occupancy classification under the Indiana building code.

A registration under section 11(a) of this chapter is required for operation in 2006 and following years.

(c) This subsection does not apply to a structure identified in subsection (b)(1), (b)(2), (b)(3), or (b)(4). A retailer may sell consumer fireworks and items referenced in section 8(a) of this chapter from a structure under the following conditions:

(1) The structure must be a Class 1 structure in which consumer fireworks are sold and stored.

(2) The sales site must comply with all applicable local zoning and land use rules.

(3) The weight of consumer fireworks in the structure may not exceed three thousand (3,000) gross pounds of consumer fireworks.

(4) The retailer holds a valid registration under section 11(a) of this chapter.

(5) A retailer that sold consumer fireworks and operated from a structure with a registration in 2005 may continue in operation in the structure in 2006 and the following years. A registration under section 11(a) of this chapter is required for operation in 2006 and following years.

(d) The state fire marshal or a member of the division of fire and building safety staff shall, under section 9 of this chapter, inspect tents and structures in which fireworks are sold. The state fire marshal may delegate this responsibility to a responding fire department with jurisdiction over the tent or structure, subject to the policies and procedures of the state fire marshal.

(e) A retailer shall file an application for each retail location on a form to be provided by the state fire marshal. **An application must be filed at least thirty (30) days before the date on which the retailer intends to begin selling consumer fireworks.**

(f) This chapter does not limit the quantity of items referenced in section 8(a) of this chapter that may be sold from any Class 1 structure that complied with the rules of the fire prevention and building safety commission in effect before May 21, 2003.

SECTION 2. IC 22-11-14-11, AS ADDED BY P.L.187-2006, SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 11. (a) A retailer may not sell consumer fireworks until the retailer has:

(1) filed the application required under section 4.5(e) of this chapter with the state fire marshal for each location from which

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the retailer proposes to sell the consumer fireworks, which must be filed on an annual basis; and

(2) paid an accompanying registration fee of:

(A) one thousand dollars (\$1,000) for the first location if a fee under section 5(b)(3) of this chapter has not been paid;

(B) five hundred dollars (\$500) for each additional sales location in a tent; and

(C) two hundred dollars (\$200) for each additional sales location in a structure;

from which the retailer proposes to sell the consumer fireworks. Upon receipt of the completed application form, the accompanying fee, and, if required, the affidavit under subsection (b), the state fire marshal shall issue a certificate of compliance to the retailer for each sales location. **A certificate of compliance expires on December 31 of the calendar year in which the certificate is issued.**

(b) A person seeking a certificate of compliance authorizing the sale of consumer fireworks at retail from a structure identified in section 4.5(b)(1), 4.5(b)(2), or 4.5(c) of this chapter, or from a tent under section 4.5(a) of this chapter shall submit with the application:

(1) an affidavit executed by a responsible party with personal knowledge, establishing that consumer fireworks were sold at retail or wholesale from a structure at the same location as of a date set forth in section 4.5(b)(1), 4.5(b)(2), or 4.5(c) of this chapter, or from a tent as of a date set forth under section 4.5(a)(9) of this chapter; ~~and~~

(2) proof of sales of consumer fireworks from that location; **and**  
**(3) a copy of an inspection report issued by a fire department or the division of fire and building safety stating that the structure or tent at the location is in compliance with applicable fire safety laws. The state fire marshal may reimburse a fire department for reasonable expenses incurred in conducting an inspection under this subdivision.**

(c) A person may not sell consumer fireworks at retail if a certificate of compliance from the state fire marshal has not been issued for the location showing registration under subsection (a).

(d) A certificate of compliance issued to a retailer of consumer fireworks is not transferable except to a subsequent owner or operator of a business at the same location in accordance with the policies and guidelines of the state fire marshal.

**(e) A retailer that sells fireworks from a location for which a certificate of compliance has not been issued under subsection (a) commits a Class B infraction. Each day a retailer violates this**

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- 1 subsection constitutes a separate violation.  
2 SECTION 3. [EFFECTIVE UPON PASSAGE] IC 22-11-14-4.5(e),  
3 as amended by this act, applies after May 15, 2007.  
4 SECTION 4. An emergency is declared for this act.

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## COMMITTEE REPORT

Madam President: The Senate Committee on Local Government and Elections, to which was referred Senate Bill No. 358, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 3, line 31, delete "on or" and insert "**at least thirty (30) days**".

Page 3, line 31, delete "May 1 of the calendar year during" and insert "**the date on**".

Page 3, line 32, delete "sell" and insert "**begin selling**".

Page 5, line 3, delete "December 31," and insert "**May 15,**".

and when so amended that said bill do pass.

(Reference is to SB 358 as introduced.)

LAWSON C, Chairperson

Committee Vote: Yeas 9, Nays 0.

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